

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

DEREK A. DEAL,

Plaintiff,

-against-

9:04 -CV-0072  
(LEK/DEP)

TODD YURACK, Correctional Officer  
SERGEANT BEVERLY, and MR.  
ARMSTEAD, Lieutenant,

Defendants.

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**DECISION AND ORDER**

This matter comes before the Court following a Report-Recommendation filed on December 6, 2004 by the Honorable David E. Peebles, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(c) of the Northern District of New York.

Within ten days, excluding weekends and holidays, after a party has been served with a copy of a Magistrate Judge's Report-Recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations," Fed. R. Civ. P. 72(b), in compliance with L.R. 72.1. In the interval of at least 15 days since the Magistrate Judge filed the subject Report-Recommendation, no objections to it have been raised. Furthermore, after examining the record, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice.

Accordingly, it is hereby

ORDERED, that the Report-Recommendation is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

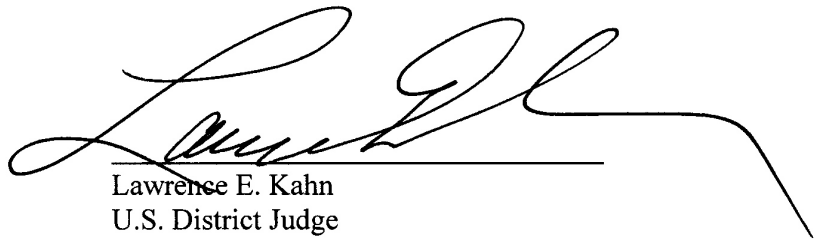
ORDERED, that defendant Beverly's motion to dismiss plaintiff's claim against him be

**GRANTED** and plaintiff's complaint as against defendant Beverly be **DISMISSED**; and it is further

ORDERED, that the Clerk serve a copy of this order on all parties.

IT IS SO ORDERED.

DATED: April 28, 2005  
Albany, New York



Lawrence E. Kahn  
U.S. District Judge